

DEVELOPING A POLICY TO PROTECT WETLANDS AND RIPARIAN AREAS *PHASE 1*

Informational Public Workshops

Bill Orme, Senior Environmental Scientist
Wetlands and 401 Certification Unit
Division of Water Quality
State Water Resources Control Board
Sacramento: August 18, 2008
Los Angeles: August 20, 2008

Why Develop a New Policy

- No consistent statewide policy exists
- Water Boards are required to protect ALL “waters of the state”
- Federal protection extends only to “waters of the U.S.,” a shrinking category
- California is losing wetlands at an increasing rate

Benefits of a New Policy

- Statewide consistency
- Efficiency and effectiveness
- Promote wetlands’ role in offsetting effects of climate change
 - Flood Protection
 - Groundwater recharge
 - Carbon sequestration
 - Sustaining plant and animal communities

What is at risk without clear policy guidance?

Loss of these vulnerable wetlands and associated benefits



2007: Public Discussion of Alternative Approaches

- Staff presented four scenarios
- Stakeholders commented
- Staff recommendation to State Water Board: Three-phase approach to policy development

**April 2008:
State Water Board Resolution**

- Notes benefits of wetlands and riparian areas for people and wildlife
- Endorses three-phase approach
- Directs staff to coordinate with state and federal agencies, and the public

Phase 1

- Develop a definition of wetlands for California
- Develop a policy to protect wetlands from dredge and fill activities
- Design a wetland regulatory mechanism with a watershed focus
- Design a wetland assessment method to monitor program effectiveness

Phase 2

- Expand the policy to protect wetlands from all other activities
- Develop new or revised definitions of “beneficial uses”
- Develop water quality objectives for wetlands
- Design an implementation program to achieve objectives and protect wetland functions

Phase 3

- Expand the policy to protect riparian area water quality functions
 - Develop new definitions of “beneficial uses” of riparian areas
 - Develop new water quality objectives
 - Design an implementation program to achieve the objectives

Key Issues

- Wetland Definition
- U.S. Army Corps of Engineers 404(b)(1) Guidelines (40 C.F.R. § 230.10(a))
 - 1. Avoidance Requirements and Alternatives Analysis
 - 2. Minimization Requirements
 - 3. Evaluation of Impacts
 - 4. Mitigation Requirements
- Wetland Condition Assessment

Wetlands Definition

- No statewide definition of wetlands exists
- California Water Code
 - “Waters of the State” means any surface water or groundwater, including saline waters, within the boundaries of the state. (Water Code §13050(e))
- Wetlands Conservation Policy, 1993 (“No Net Loss Policy”)
 - Ensure no overall net loss and achieve a long-term net gain in the quantity, quality, and permanence of wetlands acreage and values in California in a manner that fosters creativity, stewardship and respect for private property

Statewide Wetlands Definition

- Must accomplish goals of California Water Code and No Net Loss Policy
- Must be broad enough to encompass the state’s diverse array of wetlands
- Should be consistent, as far as possible, with other agencies’ definitions
- Should use accepted field methods to identify wetland boundaries

What additional considerations should the State Water Board use that would reliably define California’s wetlands?

Avoidance Requirements and Alternatives Analysis

- Under federal Guidelines, applicant must show:
 - Impacts have been avoided where possible
 - All possible steps have been taken to minimize unavoidable impacts
 - Mitigation for unavoidable impacts is included in the project

What additional measures should the Policy include to strengthen avoidance requirements including the alternatives analysis?

Evaluating Impacts from Dredge and Fill activities

- Federal Guidelines list actions to minimize adverse effects, including
 - Analyzing and controlling the material to be discharged
 - Analyzing effects of construction activities
 - Plant and animal protection
 - Analyzing effects on human health and beneficial uses
 - Other actions

What additional measures should the Policy include to evaluate and minimize adverse impacts of dredge or fill material discharges?

Mitigation Requirements

After all steps have been taken to avoid and minimize impacts, federal Guidelines require compensatory mitigation for any remaining impacts

What additional measures should the Policy include to strengthen mitigation requirements to adequately replace lost wetland areas and functions and meet the goals of the no-net loss policy?

Wetland Condition Assessment

The Policy may include monitoring plans to evaluate wetland condition, program progress, and compensatory mitigation projects.

How should the Policy address monitoring progress toward wetlands protection?



Additional Comments?

DEVELOPING A POLICY TO PROTECT WETLANDS AND RIPARIAN AREAS

PHASE 1

Informational Public Workshops

WRITTEN COMMENTS WELCOME
Please submit by 12 p.m. on September 8, 2008

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 J Street, 24th Floor
Sacramento, CA 95814

email to commentletters@waterboards.ca.gov
